IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11006 of 2002

with

SPECIAL CIVIL APPLICATION No 11956 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE D.N.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BHARGAVI KAMALKUMAR TRIPATHI NEE BHARGAVI RAJNIKANT RAVAL

Versus

KAMALKUMAR HASMUKHBHAI TRIPATHI

Appearance:

1. Special Civil Application No. 11006 of 2002
   MR KUNJAL D PANDYA for Petitioner No. 1
   MR GT PARIKH for Respondent No. 1
   MR KG PANDIT for Respondent No. 1
2. Special Civil Application No. 11956 of 2002
   MR KG PANDIT for Petitioner No. 1
   NOTICE SERVED for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE D.N.PATEL

Date of decision: 07/07/2004

ORAL JUDGEMENT

1. Both these petitions arise out of the common order passed by the Principal Judge, Family Court, Ahmedabad below the application exh. 5 preferred in Family Suit No.188 of 2001.

2. Family Suit No. 188 of 2001 was preferred by the original respondent - wife before the Family Court, Ahmedabad, wherein the application exh. 5 was preferred by the wife for getting interim maintenance u/s 24 of the Hindu Marriage Act, 1955. The Family Court, Ahmedabad awarded Rs.3,000/- p.m. towards interim maintenance to be paid by the original petitioner - husband to the wife u/s 24 of the Act, 1955 vide order dated 6-9-2002 passed below exh. 5. Special Civil Application No. 11006 of 2002 has been preferred by the wife for enhancement of interim maintenance . Whereas Special Civil Application No.11957 of 2002l has been filed by husband for quashing and setting aside the order dated 6-9-2002 passed by the Family Court, Ahmedabad below exh.5 in Family Suit No. 188 of 2001.

3. I have considered the submissions made by the learned advocates for both the parties and perused the relevant papers and the order passed by the Court below.

4. Looking to the facts and circumstances of the case and the material on record, the impugned order passed by the trial Court below the application exh. 5 in Family Suit No. 188 of 2001 is legal, valid and just as well as in consonance with the facts of the case and there is no error much less the error apparent on the face of the record in the impugned order of the Court below. There is also no perversity or illegality in the impugned order of the trial Court. Thus, there is no substance in the above petitions. Accordingly, both these petitions are dismissed. So far as Spl.C.A. No.11006 of 2002 is concerned, Rule is discharged, with no order as to costs. Interim relief granted earlier stands vacated. So far as Special Civil Application No.11956 of 2002 is concerned, notice is discharged, with no order as to costs. Interim relief granted earlier stands vacated.

5. Learned advocate for the parties contended that Family Suit No. 105 of 2001 and 188 of 2001 have been consolidated by order passed by the Principal Judge,

Family Court, Ahmedabad and therefore both the family suits may be directed to be disposed of simultaneously. Accordingly, Family Court, Ahmedabad is directed to dispose of Family Suit No.105 of 2001 and 188 of 2001 simultaneously in accordance with law, as early as possible, preferably within a period of four months from the date of receipt of writ of this Court.

6. Learned advocate appearing for the petitioner (husband) of Special Civil Application No.11956 of 2002 submitted that the amount of Rs.25000/- has been deposited by the husband as per the order of this Court and hence the said amount may be refunded to the husband. Looking to the facts and circumstances of the case and the order of this Court, aforesaid amount deposited by the husband before this Court cannot be refunded to him but the same is hereby transmitted to the Family Court, Ahmedabad and the same be treated as deposit during pendency of the aforesaid Family Suits. D.S. is permitted. The registry of this Court is directed to transfer Rs.25,000/- deposited in this Court vide order in Special Civil Application No. 11956 of 2002, to Family Court, Ahmedabad.

(D.N. Patel, J.)

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